

**REMARKS**

**Status of Claims:**

Claims 1-36 were pending. Claims 37-40 are currently being added. Accordingly, after amending the claims as set forth above, Claims 1-40 are now pending in this application.

**Drawing Correction:**

FIG. 2 is amended to correct the erroneous labeling of the code axis. The code axis has been amended from “f0 f1 f2 f3 f4 f5” to correctly state code axis values “C0 C1 C2 C3 C4 C5.” A replacement sheet is attached hereto.

**Objections to Specification:**

On page 2 of the Office Action, the Examiner objected to Applicant’s specification at page 7, lines 17-18, which states “C0, C1, C2, C3, C4, C5 and C6.” Applicant thanks Examiner and amends page 7, lines 17-18 to state “C0, C1, C2, C3, C4 and C5.”

**Prior Art Rejections Under 35 U.S.C. § 102:**

On page 2 of the Office Action, Claims 1, 6, 11, 16, 21, 25, 29 and 33 are rejected under 35 U.S.C. § 102(e) as being unpatentable over Hiramatsu. (US 6,519,278). These rejections are respectfully traversed.

Claims 1, 6, 11, 16, 21, 25, 29 and 33 have been amended to recite detecting “an amount of” traffic and a detected signal indicative of the “amount of” traffic to clarify the invention.

Regarding Claim 1, Hiramatsu teaches increasing or decreases the number of spreading codes in a channel in response to whether the traffic is voice or data traffic (col. 4, lines 26-43), and/or the quality of the reverse or forward link signal (col. 2, line 54 and col. 3, line 2). The teachings identified by Examiner in Hiramatsu are different than Applicant’s claimed invention because Applicant’s claimed invention detects an amount of traffic and assigns a number of spreading codes in response to the amount of traffic detected in the

channel. Hiramatsu simply does not provide such a teaching. Applicant has also performed a word search for “traffic” in Hiramatsu utilizing the US PTO database. The word “traffic” never appears in the Hiramatsu specification.

Accordingly, reconsideration and withdrawal of the rejection of Claim 1 is respectfully requested. In order for a reference to be utilized as an anticipatory reference under the provisions of 35 U.S.C. § 102, the reference must disclose each and every claim limitation. This is certainly not the case here, and thus the Sec. 102 rejection must be withdrawn.

Independent Claims 6, 11, 16, 21, 25, 29 and 33 all have the limitations of detecting “an amount of” traffic and a detected signal indicative of the “amount of” traffic, found in Claim 1, and, as such, are patentable for at least the reasons stated above with regard to Claim 1. Accordingly, reconsideration and withdrawal of the rejections of Claims 6, 11, 16, 21, 25, 29 and 33 is respectfully requested.

**Prior Art Rejections Under 35 U.S.C. § 103:**

On pages 3-5 of the Office Action, each of Applicant’s dependent claims is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hiramatsu in view of either Agee et al. (U.S. 6,359,923) or Magnusson et al. (U.S. 6,163,524). These rejections are respectfully traversed.

Each of the rejected dependent claims depends from one of Applicant’s independent claims. Accordingly, each of the rejected dependent claims is patentable for at least the reasons stated above with regard to the respective independent claim from which the dependent claim depends. Moreover, the teachings of the secondary reference of Magnusson does not cure the deficiencies of the primary reference of Hiramatsu. Accordingly, the Examiner has not established a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Accordingly, reconsideration and withdrawal of the rejections to Applicant’s dependent claims is respectfully requested.

**Conclusion:**

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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